

Message Text

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ACTION EA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 OMB-01 NIC-01 DRC-01 /093 W

----- 048706

R 310842Z JUL 74

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC 3772

LIMITED OFFICIAL USE CANBERRA 4954

E.O. 11652: N/A

TAGS: PINT, AS

SUBJ: GOVERNOR GENERAL CONVENES JOINT SITTING OF
PARLIAMENT AUG 6 AMID POLITICAL UNCERTAINTY

REF: CANBERRA 4814

1. SUMMARY: GOVERNOR-GENERAL ISSUED PROCLAMATION
JULY 30 CONVENING JOINT SITTING OF PARLIAMENT (REFTEL)
FOR AUG 6. QUEENSLAND PREMIER HAS ANNOUNCED HIS STATE
WILL SEEK INJUNCTION FROM HIGH COURT TO PREVENT JOINT
SITTING. NOTED AUSTRALIAN CONSTITUTIONAL AUTHORITY,
MR. D. J. KILLEN, TELLS US HE QUESTIONS WHETHER JOINT
SITTING WILL BE HELD. MEANWHILE, SENATE POSTPONED
ON JULY 30 GOVERNMENT'S PROPOSAL TO
INCREASE POSTAL AND TELEPHONE RATES. PRIME MINISTER
HAS INDICATED TO LABOR PARLIAMENTARIAN HE IS CONSIDER-
ING SETTING STAGE FOR ANOTHER DOUBLE DISSOLUTION AND
EARLY ELECTIONS. AGE EDITORIAL JULY 31 COMMENTS
APTLY QTE THE WHITLAM GOVERNMENT IS IN TROUBLE. END
QTE. END SUMMARY

2. PREPARATIONS FOR JOINT SITTING OF AUSTRALIAN
PARLIAMENT TOOK ONE STEP FORWARD JULY 30 WHEN
GOVERNOR GENERAL, SIR JOHN KERR, ACTING ON ADVICE
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OF PRIME MINISTER WHITLAM, CONVENED JOINT SITTING

OF PARLIAMENT FOR AUG 6. GOVERNOR GENERAL'S PROCLAMATION (WHICH WAS DRAFTED OR AT LEAST APPROVED BY LABOR GOVERNMENT) STATED THAT CONDITIONS FOR JOINT SITTING SET FORTH IN SECTION 57 OF CONSTITUTION HAD BEEN MET AND THAT MEMBERS QTE SHALL VOTE TOGETHER UPON EACH OF THE SAID PROPOSED LAWS AS LAST PROPOSED BY THE HOUSE OF REPRESENTATIVES. END QTE REFERENCE IS TO THE SIX BILLS (THREE ON ELECTIONS, TWO ON HEALTH SERVICES, AND ONE ON PETROLEUM & MINERALS AUTHORITY) THAT WERE CAUSE OF DOUBLE DISSOLUTION OF PARLIAMENT APRIL 11.

3. WHILE JOINT SITTING HAS THUS BEEN FORMALLY CONVENED, NUMBER OF STEPS REMAIN TO BE TAKEN BEFORE PARLIAMENT ACTUALLY MEETS IN THIS FIRST-EVER JOINT SESSION. QUEENSLAND PERMIER BJELKE-PETERSEN TOLD PRESS JULY 30 THAT QUEENSLAND ATTORNEY GENERAL KNOX WAS "MOVING IN THE DIRECTION OF TAKING OUT A HIGH COURT INJUNCTION THIS WEEK" TO PREVENT JOINT SITTING. PRESS PREDICTS QUEENSLAND ACTION WILL BE TAKEN JULY 31 OR AUG 1. WE UNDERSTAND FROM SENATOR RAE (LIBERAL, TASMANIA) THAT WESTERN AUSTRALIA ALSO CONSIDERING SIMILAR ACTION BEFORE HIGH COURT.

4. PRIME MINISTER CLEARLY ANTICIPATES THAT HOLDING OF JOINT SITTING WILL BE CHALLENGED IN HIGH COURT. IN REPLY TO REQUEST BY COUNTRY PARTY LEADER ANTHONY JULY 30 THAT WHITLAM TALKED TEXT OF ADVICE HE GAVE GOVERNOR-GENERAL APRIL 11 ON DOUBLE DISSOLUTION, PRIME MINISTER DECLINED, NOTING THAT THERE LIKELY TO BE COURT ACTION RELATING TO THIS MATTER.

5. AT PRESS CONFERENCE JULY 30 PRIME MINISTER ANSWERED QUESTION ON GROUND RULES FOR JOINT SITTING AS FOLLOWS: QTE THERE WILL BE A MEETING BETWEEN THE LEADER OF THE HOUSE, THE MINISTER IN CHARGE OF GOVERNMENT BUSINESS IN THE SENATE AND THEIR COUNTERPARTS AND THE CLERKS. THERE HAVE BEEN SOME INFORMAL MEETINGS UP TILL NOW BUT OF COURSE IT HASN'T BEEN PROPER TO PUBLICIZE THEM BECAUSE ONE SHOULDN'T GIVE THE IMPRESSION OF COUNTING ONE'S CHICKENS LIMITED OFFICIAL USE

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BEFORE THEY ARE HATCHED. ONE HAS TO SEE WHAT THE GOVERNOR-GENERAL'S DECISION WILL BE AND HE, OF COURSE, ONLY MADE THAT THIS MORNING SO THERE WILL BE MEETINGS FOR THIS PURPOSE. THERE WILL HAVE TO BE LEGISLATION IF PRIVILEGE IS TO ATTACH TO THE PROCEEDINGS OF THE JOINT SITTING SUCH AS ATTACHES TO THE SITTING OF THE INDIVIDUAL HOUSES. WE WILL HAVE TO AMEND THE PARLIAMENTARY BROADCASTING ACT AND THE PARLIAMENTARY PAPERS ACT IN ORDER TO GIVE

PRIVILEGE TO DOCUMENTS AND I THINK ALSO THE EVIDENCE ACT SO AS TO ENABLE PROOFS TO BE GIVEN IN THE COURTS OF THE PROCEEDINGS OF A JOINT SITTING AS DISTINCT FROM THE SEPARATE SITTINGS WHICH HAVE ALWAYS TAKEN PLACE UP UNTIL NOW. END QTE

5. IN FOREGOING PRESS CONFERENCE STATEMENT, PRIME MINISTER APPEARS TO BE SAYING THAT MEETING WILL INCLUDE OPPOSITION LEADERS, AS HE REFERS TO LEADER OF HOUSE (MHR FRED DALY), MINISTER IN CHARGE OF GOVERNMENT BUSINESS IN THE SENATE (SENATOR MURPHY) " AND THEIR COUNTERPARTS". THUS FAR, OPPOSITION LEADERSHIP HAS NOT YET BEEN FORMALLY CONSULTED ON PROCEDURES FOR JOINT SITTING. PRIME MINISTER, IN ABOVE PASSAGE, REFERS TO NEED FOR LEGISLATION TO PROTECT PROCEEDINGS OF JOINT SITTING AND TO RELATED AMENDMENTS TO PARLIAMENTARY BROADCASTING ACT AND PARLIAMENTARY PAPERS ACT. SUCH LEGISLATION WILL REQUIRE COOPERATION FROM OPPOSITION TO GET PAST SENATE, AT LEAST. OPPOSITION LEADER SNEDDEN HAD COMMENTED TO AMBASSADOR JULY 18 THAT SUCH LEGISLATION WOULD BE REQUIRED FOR JOINT SITTING TO BE HELD. CURIOUS THAT NOTHING SEEMS TO HAVE BEEN DONE ABOUT GETTING ESSENTIAL COOPERATION FROM OPPOSITION UP TO THIS POINT.

6. D. J. KILLEN (LIBERAL, QUEENSLAND), ONE OF BEST-QUALIFIED AUSTRALIAN CONSTITUTIONAL LAWYERS, TOLD US JULY 29 THAT HE HAD CONSIDERABLE DOUBTS THAT JOINT SITTING WOULD EVER BE HELD. HE FELT THAT CONSTITUTIONALITY OF SIX BILLS REFERRED TO BY GOVERNOR-GENERAL IN PROCLAMATION OF JOINT SITTING WAS OPEN TO ATTACK ON THREE GROUNDS : 1) IT CAN BE ARGUED THAT SECTION 57 REFERS TO ONLY ONE BILL, RATHER THAN SIX BILLS (OTHER LIMITED OFFICIAL USE

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CONSTITUTIONAL LAWYERS CONTEST THIS VIEW, AND OPPOSITION LEADER SNEDDEN HAS INDICATED TO US THAT HE DOES NOT THINK THERE IS MUCH SUBSTANCE IN IT); 2) PARLIAMENT WAS PROROGUED IN FEBRUARY TO ALLOW QUEEN ELIZABETH TO RE-OPEN SESSION ON FEBRUARY 28, ALL EXISTING LEGISLATION THEREFORE EXPIRING. THIS WOULD MEAN THAT SIX BILLS DO NOT MEET REQUIREMENTS OF SECTION 57 OF CONSTITUTION (ANDREW PEACOCK, OPPOSITION SPOKESMAN FOR FOREIGN AFFAIRS, MADE THIS POINT TO AMBASSADOR IN WASHINGTON IN FEBRUARY); 3) PETROLEUM AND MINERALS AUTHORITY BILL WAS PASSED THREE TIMES BUT WITHOUT ALLOWING PROPER INTERVAL OF THREE MONTHS TO PASS BETWEEN RESPECTIVE INTRODUCTIONS OF BILL. (WE BELIEVE THIS IS CORRECT AND DO NOT UNDERSTAND HOW WHITLAM WILL GET PAST THIS OBSTACLE.)

7. EVEN IF JOINT SITTING IS HELD, WE UNDERSTAND THAT ANY LEGISLATION IT PURPORTS TO PASS MAY BE OPEN TO SUBSEQUENT CHALLENGE AS HAVING BEEN IMPROPERLY PASSED.

8. MIXED IN WITH ABOVE CONSIDERATIONS AND CONTINUED INTRACTABILITY OF SENATE (WHICH ON JULY 30 DEFERRED UNTIL PRESENTATION OF BUDGET IN SEPTEMBER AN INCREASE IN POSTAL AND TELEPHONE RATES WHICH LABOR GOVERNMENT HAD PROPOSED TO TAKE EFFECT FROM AUG 1) IS INDICATION THAT PRIME MINISTER IS BEGINNING TO LOOK TOWARDS NEW ELECTIONS AS SOON AS POSSIBLE. MANFRED CROSS (ALP, QUEENSLAND), ONE OF OUR INTERNATIONAL VISITOR GRANTEES, TOLD US JULY 29 HE HAD BEEN INFORMED BY PRIME MINISTER THAT HE COULD NOT RPT NOT LEAVE FOR U.S. AT THIS TIME. WHITLAM, ACCORDING TO CROSS, SAID THAT IF SENATE CONTINUED INTRACTABLE, HE WOULD HAVE PARLIAMENT CONVENED ON OR ABOUT AUG 20, IN ORDER TO BEGIN PROCESS OF PASSAGE OF LEGISLATION THROUGH HOUSE, ANTICIPATING SENATE REJECTION AND THUS SETTING STAGE FOR ANOTHER DOUBLE DISSOLUTION AS SOON AS POSSIBLE. (WHITLAM HAS HAD THIS POSSIBILITY IN MIND FOR SOME TIME, AS HE HAS ASKED CHIEF ELECTORAL OFFICER, ONCE ELECTORAL BILL IS PASSED BY JOINT SITTING, TO COMPLETE REDISTRICTING BEFORE CHRISTMAS SO AS TO BE READY FOR NEW ELECTIONS AS SOON THEREAFTER AS CAN BE ARRANGED. THIS WOULD SUGGEST DOUBLE DISSOLUTION AND LIMITED OFFICIAL USE

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NEW ELECTIONS EARLY IN 1975.)

9. COMMENT: COMPLEX SERIES OF DEVELOPMENTS OUTLINED ABOVE INDICATE THE VARIETY OF CONSIDERATIONS NOW AFFECTING DEVELOPMENT OF POLITICAL SITUATION. WHITLAM CERTAINLY HAS HIS HANDS FULL AT PRESENT AND IS LIKELY TO FACE CONTINUING DIFFICULTIES FOR BALANCE OF YEAR. AGE EDITORIAL JULY 31 APTLY SUMS UP SITUATION IN FIRST SENTENCE OF COMMENT TOO LONG AND DETAILED FOR INCLUSION HERE: QTE THE WHITLAM GOVERNMENT IS IN TROUBLE. END QTE. HARROP

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESS COMMENTS, CENTRAL LEGISLATURE, MEETINGS, ELECTIONS, COURTS, POLITICAL SITUATION
Control Number: n/a
Copy: SINGLE
Draft Date: 31 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: boyleja
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974CANBER04954
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740208-0049
From: CANBERRA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974074/aaaaacrb.tel
Line Count: 213
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: CANBERRA 4814
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 08 JUL 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 JUL 2002 by boyleja>; APPROVED <25 FEB 2003 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GOVERNOR GENERAL CONVENES JOINT SITTING OF PARLIAMENT AUG 6 AMID POLITICAL UNCERTAINTY
TAGS: PINT, AS
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005